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# State of Utah

## DEPARTMENT OF NATURAL RESOURCES

MICHAEL R. STYLER  
Executive Director

### Division of Oil, Gas and Mining

JOHN R. BAZA  
Division Director

July 29, 2016

CERTIFIED RETURN RECEIPT  
7013 2250 0000 2310 2583

Joseph Stoddard  
Inspiration Custom Homes, LLC  
395 Bayside Drive  
Saratoga Springs, Utah 84045

Subject: Proposed Assessment for State Notice of Violation No. MC-2015-62-04, Inspiration Custom Homes, LLC., Stoddard Mine, S/039/0042, Sanpete County, Utah

**Response Due By: 30 Days of Receipt**

Dear Mr. Stoddard:

The undersigned has been appointed by the Division of Oil, Gas & Mining as the assessment officer for assessing penalties under R647-7.

Enclosed is the proposed civil penalty assessment for the above referenced notice of violation (NOV). The NOV was issued by Division inspector, Peter Brinton, on September 16, 2015. Rule R647-7-103 et. seq. has been utilized to determine the proposed penalty of \$2,310.00 September 1, 2016. The enclosed worksheet outlines how the civil penalty was assessed.

By these rules, any written information which was submitted by you or your agent within fifteen (15) days of receipt of this NOV has been considered in determining the facts surrounding the violation and the amount of this penalty.

Under R647-7-106, there are two informal appeal options available to you. You may appeal the 'fact of the violation', the proposed civil penalty, or both. If you wish to informally appeal you should file a written request for an informal conference within thirty 30 days of receipt of this letter.

The informal conference will be conducted by a Division-appointed conference officer. The informal conference for the fact of the violation is distinct from the informal assessment conference regarding the proposed penalty. If you wish to review both the fact of the violation and proposed penalty assessment, you should file a written request for an assessment conference within thirty (30) days of receipt of this letter. In this case, the assessment conference will be scheduled immediately following the review of the fact of the violation.

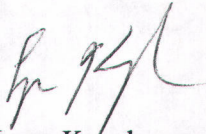




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Joseph Stoddard  
S/039/0042  
July 29, 2016

**If a timely request for review is not made, the fact of the violation will stand, the proposed penalty will become final, and will be due and payable within thirty (30) days of the date of this proposed assessment (by September 1, 2016). Please remit payment to the Division, mail c/o Sheri Sasaki.**

Sincerely,

A handwritten signature in black ink, appearing to read 'Lynn Kunzler', with a stylized flourish at the end.

Lynn Kunzler  
Assessment Officer

LK: eb

Enclosure: Proposed assessment worksheet

cc: Sheri Sasaki, Accounting  
Vickie Southwick, Exec. Sec.

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**WORKSHEET FOR ASSESSMENT OF PENALTIES**  
**DIVISION OF OIL, GAS & MINING**  
**Minerals Regulatory Program**

NOV / CO #: MN-2015-62-04 PERMIT: S/039/0042  
COMPANY / MINE Inspiration Custom Homes, LLC., / Stoddard Mine  
ASSESSMENT DATE July 27, 2016  
ASSESSMENT OFFICER Lynn Kunzler

**I. HISTORY (Max. 25 pts.) (R647-7-103.2.11)**

- A. Are there previous violations, which are not pending or vacated, which fall three (3) years of today's date?

PREVIOUS VIOLATIONS	EFFECTIVE DATE	POINTS (1pt for NOV 5pts for CO)
<u>None</u>	<u></u>	<u></u>

**TOTAL HISTORY POINTS 0**

**II. SERIOUSNESS (Max 45pts) (R647-7-103.2.12)**

NOTE: For assignment of points in Parts II and III, the following apply:

1. Based on facts supplied by the inspector, the Assessment Officer will determine within each category where the violation falls.
2. Beginning at the mid-point of the category, the Assessment Officer will adjust the points up or down, utilizing the inspector's and operator's statements as guiding documents.

Is this an EVENT (A) or Administrative (B) violation? Event (A)  
(assign points according to A or B)

**A. EVENT VIOLATIONS (Max 45 pts.)**

1. What is the event which the violated standard was designed to prevent?  
Environmental Harm/Water Pollution
2. What is the probability of the occurrence of the event which a violated standard was designed to prevent?

PROBABILITY	POINT RANGE	PROBABILITY	POINT RANGE
None	0	Likely	10-19
Unlikely	1-9	Occurred	20

**ASSIGN PROBABILITY OF OCCURRENCE POINTS 15**

**PROVIDE AN EXPLANATION OF POINTS:** A significant fuel spill (nearly 100 sq. ft. of soil contaminated) after a fuel container had been unknowingly tipped over by heavy equipment. Images of the fuel container show that it was not within an area of secondary containment, and the would likely hold in excess of 100 gallon. Points are assigned at the mid-point of the "likely" range.



3. What is the extent of actual or potential damage?: Nearly 100 sq. ft. of surface area showed signs of contamination. It is estimated that the fuel container held in excess of 100 gallon. While it is unknown of the volume actually spilled, potentially damage could be significant.

**ASSIGN DAMAGE POINTS (Range 0-25) 10**

In assigning points, consider the duration and extent of said damage or impact, in terms of area and impact on the public or environment.

**PROVIDE AN EXPLANATION OF POINTS:** About 100 gallon of fuel had spilled affecting an area of nearly 100 sq. ft. to a depth of 6 inches. Only soil resources were actually damaged, there was no ground water affected, although given time it could have leached into the ground water system. Damage points are assigned just below midpoint of the range.

**B. ADMINISTRATIVE VIOLATIONS (Max 25pts)**

1. Is this a POTENTIAL or ACTUAL hindrance to enforcement? \_\_\_\_\_  
Assign points based on the extent to which enforcement is actually or potentially hindered by the violation.

**ASSIGN HINDRANCE POINTS \_\_\_\_\_**

**PROVIDE AN EXPLANATION OF POINTS: \_\_\_\_\_**

**TOTAL SERIOUSNESS POINTS (A or B) 25**

**III. DEGREE OF FAULT (Max 30 pts.) (R647-7-103.2.13)**

LEVEL of NEGLIGENCE.	Point Range
No Negligence (Was this an inadvertent violation which was unavoidable by the exercise of reasonable care?)	0
Negligence (was this a failure of a permittee to prevent the occurrence of a violation due to indifference lack of diligence, or lack of reasonable care?)	1 - 15
Greater Degree of Fault (reckless, knowing or intentional conduct)	16 - 30

STATE DEGREE OF NEGLIGENCE: Negligent

**ASSIGN NEGLIGENCE POINTS 18**

**PROVIDE AN EXPLANATION OF POINTS:** Not only was the operator negligent in storing the fuel properly, the container had been knocked over by heavy equipment, and the operator apparently made no attempt to report or clean up the spill until after being discovered by the inspector and cited. This demonstrates reckless, knowing or intentional conduct. Since this is a first violation of this nature for the operator, points are assigned near the lower end of the 'Greater Degree of Fault' range.



**IV. GOOD FAITH (Max 20 pts.) (R467-7-103.2.14)**

(Either A or B) (Does not apply to violations requiring no abatement measures, or violations not abated at the time of assessment)

**Has Violation Been Abated?** Yes (effective date of 10/12/2015).

- A. **EASY ABATEMENT** (The operator had onsite, the resources necessary to achieve compliance of the violated standard within the permit area.)

	<u>Point Range</u>
Immediate Compliance (Immediately following the issuance of the NOV)	-11 to -20
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-1 to -10
Normal Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time)	0

- B. **DIFFICULT ABATEMENT** (The operator did not have the resources at hand to achieve compliance, or the submission of plans was required prior to physical activity to achieve compliance.)

	<u>Point Range</u>
Rapid Compliance (Permittee used diligence to abate the violation. Violation abated in less time than allotted.)	-11 to -20
Normal Compliance (Operator complied within the abatement period)	-1 to -10
Extended Compliance (Operator complied within the abatement period required, or, Operator requested an extension to abatement time) (Permittee took minimal actions for abatement to stay within the limits of the violation, or the plan submitted for abatement was incomplete.)	0

EASY OR DIFFICULT ABATEMENT? Easy Abatement – Operator had necessary resources  
on site to abate the violation.

**ASSIGN GOOD FAITH POINTS** 2

**PROVIDE AN EXPLANATION OF POINTS:** Operator completed the abatement in less time than  
allotted (30 days allotted, abatement completed in 27 days) points awarded based on percentage of time it  
took to abate vs. time allotted..

**V. ASSESSMENT SUMMARY (R647-7-103.3)**

I.	TOTAL HISTORY POINTS	<u>0</u>
II.	TOTAL SERIOUSNESS POINTS	<u>25</u>
III.	TOTAL NEGLIGENCE POINTS	<u>18</u>
IV.	TOTAL GOOD FAITH POINTS	<u>-2</u>
	TOTAL ASSESSED POINTS	<u>41</u>
	<b>TOTAL ASSESSED FINE</b>	<b><u>\$2,310.00</u></b>